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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/698,776	10/31/2003	Alyson Probst Simon	5183-1	1725
22442	7590	10/18/2005	EXAMINER	
SHERIDAN ROSS PC 1560 BROADWAY SUITE 1200 DENVER, CO 80202			WILKENS, JANET MARIE	
			ART UNIT	PAPER NUMBER
			3637	

DATE MAILED: 10/18/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

<b>Office Action Summary</b>	Application No.	Applicant(s)
	10/698,776	SIMON, ALYSON PROBST
	Examiner	Art Unit
	Janet M. Wilkens	3637

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --  
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

#### Status

- 1) Responsive to communication(s) filed on 03 August 2005.
- 2a) This action is FINAL.                            2b) This action is non-final.
- 3) Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

#### Disposition of Claims

- 4) Claim(s) 1-4,6-13 and 15-17 is/are pending in the application.
  - 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) Claim(s) \_\_\_\_\_ is/are allowed.
- 6) Claim(s) 1-4,6-13 and 15-17 is/are rejected.
- 7) Claim(s) \_\_\_\_\_ is/are objected to.
- 8) Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

#### Application Papers

- 9) The specification is objected to by the Examiner.
- 10) The drawing(s) filed on 03 August 2005 is/are: a) accepted or b) objected to by the Examiner.
 

Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

#### Priority under 35 U.S.C. § 119

- 12) Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
  - a) All    b) Some \* c) None of:
    1. Certified copies of the priority documents have been received.
    2. Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
    3. Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

#### Attachment(s)

- 1) Notice of References Cited (PTO-892)
- 2) Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)  
Paper No(s)/Mail Date \_\_\_\_\_.
- 4) Interview Summary (PTO-413)  
Paper No(s)/Mail Date. \_\_\_\_\_.
- 5) Notice of Informal Patent Application (PTO-152)
- 6) Other: \_\_\_\_\_.

***Drawings***

The replacement drawings submitted August 3, 2005 have been approved by the examiner.

***Claim Rejections - 35 USC § 112***

The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

Claims 4 and 16 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention. For claim 4, the scope of the claim is unclear. Namely, in claim 1, the rigid panel is not being positively claimed; however, in claim 4 the panel is further defined. Therefore, it is unclear whether or not the panel is being claimed in combination with the tray. For claim 16, "said substantially rigid panel" lacks antecedent basis.

***Claim Rejections - 35 USC § 102***

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

Claims 1 and 4 are rejected under 35 U.S.C. 102(b) as being anticipated by Starr. Starr teaches a tray (16) comprising: a surface (26) made of compliant material

that is defined by a left edge, a right edge, an interior edge, and an exterior edge, wherein said surface is adapted for positioning over the lap of a child sitting in a child's seat; a left fastening mechanism (28) interconnected proximate to said left edge of said surface, wherein said left fastening mechanism is adapted for selective interconnection to the left arm of the child's seat; and a right fastening mechanism (28) interconnected proximate to said right edge of said surface, wherein said right fastening mechanism is adapted for selective interconnection to the right arm of the child's seat. Furthermore, the surface is capable of receiving a substantially rigid panel (18; cushion possesses a degree of rigidity and can be removed or inserted into the cover when desired), wherein when received, said substantially rigid panel is positioned proximate to the child's lap and is adapted to support at least one of a toy, a book, and a play device when said left fastening mechanism and said right fastening mechanism are selectively interconnected to the left arm and the right arm of the child's seat. Reminder: the rigid panel and seat are not being positively claimed.

Claims 1, 4, 6, and 7 are rejected under 35 U.S.C. 102(b) as being anticipated by Arseneault. Arseneault teaches a tray (Fig. 1) comprising: a compliant surface (32) that is defined by a left edge, a right edge, an interior edge, and an exterior edge, wherein said surface is adapted to drape over the lap of a seated child; a left fastening means/hook and loop fasteners (24) interconnected to said left edge, wherein said left fastening means is "adapted to" selectively interconnect proximate to the left arm of the child's seat; and a right fastening means/hook and loop fasteners (26) interconnected to said right edge, wherein said right fastening means is "adapted to" selectively

interconnect proximate to the right arm of the child's seat. Furthermore, the surface is capable of receiving a substantially rigid panel (40) between said left edge and said right edge. Please note that the rigid panel and seat/seat arms are not being positively claimed and because of the "adapted to" language, the tray structure defined in the claims only has to be capable of receiving the panel and being attached to the arms of a seat. Furthermore, the puppet (54) of Arseneault can be used in a game.

***Claim Rejections - 35 USC § 103***

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 2 and 5 are rejected under 35 U.S.C. 103(a) as being unpatentable over Starr in view of McMillan. As stated above, Starr teaches the limitations of claim 1, including a tray surface. Starr fails to teach a drink holder with a cylindrical side wall and bottom surface. McMillan teaches a cushion/compliant material surface tray having a drink holder (20) with a cylindrical side wall and bottom surface. Note: the holder is selectively interconnected to the surface (can be permanently removed, by cutting for example, or remain forever attached, if desired). It would have been obvious to one of ordinary skill in the art at the time of the invention to modify the tray of Starr by adding a drink holder therein, such as is taught by McMillan, to provide a cup/receptacle in the tray to hold cups, bottles, small articles, etc.

Claim 3 is rejected under 35 U.S.C. 103(a) as being unpatentable over Starr in view of Ostermann et al. As stated above, Starr teaches the limitations of claim 1, including a tray surface with left and right edges. Starr fails to teach left and right pockets proximate the edges. Ostermann teaches pockets (61,66) attachable to the edges of a tray via fasteners. It would have been obvious to one of ordinary skill in the art at the time of the invention to modify the tray of Starr by adding pockets adjacent the left and right edges, such as is taught by Ostermann, to provide storage space on the tray.

Claims 6 and 7 are rejected under 35 U.S.C. 103(a) as being unpatentable over Starr. As stated above, Starr teaches the limitations of claim 1, including a tray surface. For claim 6, Starr fails to teach that the fastening mechanisms are hook and loop fasteners. The examiner takes Official notice that hook and loop fasteners are well known in the art. Therefore, it would have been obvious to one of ordinary skill in the art at the time of the invention to modify the tray of Starr by adding hook and loop fasteners onto the straps and rim member (24), to provide a specific attachment mechanism between these members.

For claim 7, Starr fails to teach an interactive device on the tray. The examiner takes Official notice that interactive devices, such as games, writing boards, etc are well known in the art. Therefore, it would have been obvious to one of ordinary skill in the art at the time of the invention to add such a device on the tray of Starr, to provide an activity/activities to occupy the person seated's time.

Claims 8 and 9 are rejected under 35 U.S.C. 103(a) as being unpatentable over Starr in view of McMillan and Vulpitta et al. As stated above, Starr teaches the limitations of claim 1, including a tray surface. First for claim 8, Starr fails to teach two drink holders, each with a cylindrical side wall and bottom surface. McMillan teaches a cushion/compliant material surface tray having a drink holder (20) with a cylindrical side wall and bottom surface. Note: the holder is selectively interconnected to the surface (can be permanently removed or remain forever attached, if desired). It would have been obvious to one of ordinary skill in the art at the time of the invention to modify the tray of Starr by adding a drink holder therein, such as is taught by McMillan, to provide a cup/receptacle in the tray to hold cups, bottles, small articles, etc. It would have also been obvious to provide plural cup openings/drink holders (one on each outside portion of the surface), since it has been held that mere duplication of the essential working parts of a device involves only routine skill in the art. *St. Regis Paper Co. v Bemis Co.*, 193 USPQ 8. Furthermore, plural cup openings/drink holders would allow an additional drink to be held on the tray. Second, Starr in view of McMillan fails to teach left and right mesh pockets. Vulpitta teaches the use of a mesh pocket (23) on a tray. It would have been obvious to one of ordinary skill in the art at the time of the invention to modify the tray of Starr by adding pockets, such as is taught by Vulpitta, on the outer left and right portions thereof, to provide storage space on the tray.

For claim 9, to dimension the tray surface and cup holder any of a number of different lengths, diameters, depths etc would have been an obvious design

consideration to one of ordinary skill in the art, depending on the intended use of the tray, personnel preferences, etc.

Claims 2 and 5 are rejected under 35 U.S.C. 103(a) as being unpatentable over Arseneault in view of Richard. As stated above, Arseneault teaches the limitations of claim 1, including a tray surface. Arseneault fails to teach a drink holder with a cylindrical side wall and bottom surface. Richard teaches a compliant material surface tray having a drink holder (30) with a cylindrical side wall and bottom surface. Note: the holder is selectively interconnected to the surface (can be permanently removed or remain forever attached, if desired) and the bottommost portion thereof is generally parallel to the surface. It would have been obvious to one of ordinary skill in the art at the time of the invention to modify the tray of Arseneault by adding a drink holder therein, such as is taught by Richard, to provide a cup/receptacle in the tray to hold cups, bottles, small articles, etc.

Claims 3, 8 and 9 are rejected under 35 U.S.C. 103(a) as being unpatentable over Arseneault in view of Richard and Vulpitta et al. As stated above, Arseneault teaches the limitations of claim 1, including a tray surface. First, for claim 8, Arseneault fails to teach two drink holders, each with a cylindrical side wall and bottom surface. Richard teaches a compliant material surface tray having a drink holder (30) with a cylindrical side wall and bottom surface. Note: the holder is selectively interconnected to the surface (can be permanently removed or remain forever attached, if desired) and the bottommost portion thereof is generally parallel to the surface. It would have been obvious to one of ordinary skill in the art at the time of the invention to modify the tray of

Arseneault by adding a drink holder therein, such as is taught by Richard, to provide a cup/receptacle in the tray to hold cups, bottles, small articles, etc. It would have also been obvious to provide plural cup openings/drink holders (one on each outside portion of the surface), since it has been held that mere duplication of the essential working parts of a device involves only routine skill in the art. *St. Regis Paper Co. v Bemis Co.*, 193 USPQ 8. Furthermore, plural cup openings/drink holders would allow an additional drink to be held on the tray. Second, for claims 3 and 8, Arseneault in view of Richard fails to teach left and right mesh pockets. Vulpitta teaches the use of a mesh pocket (23) on a tray. It would have been obvious to one of ordinary skill in the art at the time of the invention to modify the tray of Arseneault in view of Richard by adding pockets, such as is taught by Vulpitta, on the outer left and right portions thereof, to provide additional storage space on the tray.

For claim 9, to dimension the tray surface and cup holder any of a number of different lengths, diameters, depths etc would have been an obvious design consideration to one of ordinary skill in the art, depending on the intended use of the tray, personnel preferences, etc.

Claims 10-13 and 15-17 are rejected under 35 U.S.C. 103(a) as being unpatentable over Arseneault in view of Richard and Vulpitta et al. Arseneault teaches a tray (Fig. 1) comprising: a compliant surface (32) that is defined by a left edge, a right edge, an interior edge, and an exterior edge, wherein said surface is adapted to drape over the lap of a seated child; a left fastening means/hook and loop fasteners (24) interconnected to said left edge, wherein said left fastening means is "adapted to"

selectively interconnect proximate to the left arm of the child's seat; and a right fastening means/hook and loop fasteners (26) interconnected to said right edge, wherein said right fastening means is "adapted to" selectively interconnect proximate to the right arm of the child's seat. The surface is capable of receiving a substantially rigid panel (40) between said left edge and said right edge. Please note that the rigid panel and seat/seat arms are not being positively claimed; and because of the "adapted to" language, the tray structure applied to the claims only has to be capable of receiving the panel and being attached to the arms of a seat. Furthermore, the puppet (54) of Arseneault can be used in a game. First for claims 10 and 13, Arseneault fails to teach a drink holder with a cylindrical side wall and bottom surface. Richard teaches a compliant material surface tray having a drink holder (30) with a cylindrical side wall and bottom surface. Note: the holder is selectively interconnected to the surface (can be permanently removed or remain forever attached, if desired) and the bottommost portion thereof is generally parallel to the surface. It would have been obvious to one of ordinary skill in the art at the time of the invention to modify the tray of Arseneault by adding a drink holder therein, such as is taught by Richard, to provide a cup/receptacle in the tray to hold cups, bottles, small articles, etc. Second for claim 10, Arseneault in view of Richard fails to teach left and right pockets on the sides of the tray. Vulpitta teaches the use of pockets (23) on a tray. It would have been obvious to one of ordinary skill in the art at the time of the invention to modify the tray of Arseneault in view of Richard by adding pockets, such as is taught by Vulpitta, on the outer left and right portions thereof, to provide additional storage space on the tray.

For claim 11, Arseneault fails to teach that the surface is specifically constructed from nylon, cotton, rubber or neoprene material. The examiner takes Official notice that surfaces made from nylon, cotton, rubber or neoprene material are well known in the art. Therefore, it would have been obvious to make the surface of Arseneault any of a number of materials, including nylon, cotton, rubber or neoprene material, depending on the desired need of the person constructing the tray, e.g. depending on the material readily available, personal preferences, economic considerations, etc.

For claim 17, to dimension the tray surface and cup holder any of a number of different lengths, diameters, depths etc would have been an obvious design consideration to one of ordinary skill in the art, depending on the intended use of the tray, personnel preferences, etc.

#### ***Response to Arguments***

Applicant's arguments concerning the reference of Marquis have been considered but are moot in view of the new grounds of rejection.

As for the arguments concerning the reference of Richard, even though this reference is no longer being applied in the same manner as in the previous Office action, the reference of Arseneault is similar thereto in many respects. It is to the comments applied to these similar features that will be addressed. Namely, even though the fastening means of Arseneault are not specifically attached to the arms of a seat, as stated above, the seat and arms are not being positively claimed in combination with the tray. The tray only has to be capable of being attached to the

arms of a seat. The fastener members (24,26) of Arseneault are capable of attaching around a respective arm of a seat and therefore these structures do meet the claim limitations concerning the fastening means.

Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Janet M. Wilkens whose telephone number is (571) 272-6869. The examiner can normally be reached on Monday-Thursday.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Lanna Mai can be reached on (571) 272-6867. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

Wilkens  
October 13, 2005

*J.M. Wilkens*  
JANET M. WILKENS  
PRIMARY EXAMINER  
*Art 3637*